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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,300	08/27/2003	Takeshi Yazawa	03500.017511.	3669
5514	7590	09/15/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TRAN, LY T	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/648,300

Applicant(s)

YAZAWA ET AL.

Examiner

Ly T. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/31/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-5, 14, 15 and 7 are rejected under 35 U.S.C. 102(e) as being anticipate by Mitsuzawa et al (USPN 6,837,566).

With respect to claims 1, 14 and 15, Mitsuzawa discloses an ink jet recording apparatus for performing image formation on a recording medium comprising:

- Preliminary discharging means for performing preliminary discharges by discharging ink from the discharge ports irrespective of the image formation (Column 6: line 26-35);
- Capping means for enabling a cap for capping the plural discharge ports to be in contact with and retract from the discharge port surface (column 3: line 1-8)
- Selection means for selecting whether the preliminary discharges are to be performed in the status of having the cap be in contact with the discharge port surface or in the status of having the cap retracted from the

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discharge port surface according to the number of the ink discharges by the preliminary discharging means (Column 6: 13-35)

- Wherein the ink discharge number on the status of having the cap in contact is selected to be greater than the ink discharge number in the status of the cap retracted (Column 3: line 1-14)

With respect to claim 2, Mitsuzawa discloses that wherein when the preliminary discharges are performed in the status of having the cap retracted, the preliminary discharges are performed toward the cap (Column 6: line 26-35)

With respect to claim 3, Mitsuzawa discloses the suction means for sucking the ink in the cap by generating negative pressure in the cap, wherein when the preliminary discharges are performed in the status of having the cap in contact, the cap is communicated with the air outside and suction is also effectuated by the suction means (Column 6: line 22-35).

With respect to claim 4, Mitsuzawa discloses the suction and the preliminary discharges are performed, the suction is performed for a designated time in the status of having the inside of the cap communicated with the air outside after the preliminary discharge terminate (column 6: line 22-35 discloses both suction and preliminary discharge, it is necessary that one action at a time because the suction and the preliminary discharge can not perform at the same time)

With respect to claim 5, Mitsuzawa discloses when the suction and the preliminary discharges are performed, the suction is performed for a designated time in the status of having the inside of the cap communicated with the air outside before the

preliminary discharge begin (Column 6: line 22-35, again discloses both suction and preliminary discharge, it is necessary that one action at a time because the suction and the preliminary discharge can not perform at the same time).

With respect to claim 7, Mitsuzawa discloses wiping means for wiping off the ink adhering to the discharge port surface, wherein when a predetermined number of preliminary discharges is executed by the preliminary discharging means, the wiping means wipes off the ink adhering to the discharge port surface (Column 8: line 7-23)

***Allowable Subject Matter***

2. Claims 8-13 are allowed.

The primary reason for the allowance of claims 8-13 is the inclusion of the limitation of an ink jet print head comprising the discharge number if the suction and the preliminary discharges being performed in the status of having the cap in contact is selected to be greater than the ink discharge number of the preliminary discharges being performed in the status of having the cap in contact. It is limitation found in each claims, as it is claimed in the combination, that has not been found, taught, or suggested by the prior art of record which makes these claims allowable over the prior art.

3. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 6 is allowable over prior art of record because at least prior art have not been found to anticipate or teach the discharge frequency in performing the suction and the preliminary discharges is lower than the discharge frequency in performing only the preliminary discharges

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ly T. TRAN whose telephone number is 571-272-2155. The examiner can normally be reached on M-F (7:30am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LT



September 9, 2005



MANISH S. SHAH  
PRIMARY EXAMINER